



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CEDB (715jj)

18 OCT 1989

MEMORANDUM FOR DIVISION AND DISTRICT COMMANDERS, EXCEPT EUROPE
COMMANDER, HUMPHREYS ENGINEER CENTER SUPPORT ACTIVITY
COMMANDERS AND DIRECTORS, LABORATORIES

ATTN: SADBUs Specialists

SUBJECT: USACE SADBUs Policy Memorandum 89-1, Small Disadvantaged
Business (SDB) Program Execution - 8(a) and SDB Set-Asides

1. References:

a. USACE Small Disadvantaged Business Handbook dated April 1987.

b. DA SADBUs Information Letter 89-1, Offering Requirements for Award to the Small Business Administration (SBA) Under the 8(a) Program, (copy enclosed).

2. Several FOAs received a message from the Department of Air Force, HQ TAC and/or HQ AFESC, Subject: 8A Contracting for FY90 MCP. The messages stated some objectives and goals in awarding contracts within specific time frames to overcome potential adverse impact on program execution.

3. This policy memorandum addresses some of our customers' concerns by outlining how the minimum small disadvantaged business (SDB) fiscal year goal assigned to each contracting office can be achieved. It also provides uniform policy and procedures for the purpose of improving our management and execution of the 8(a) program by establishing:

a. Time frames for negotiating and awarding 8(a) contracts in an expeditious manner; and

b. Tracking procedures to ensure that no 8(a) contract will be delayed excessively by our contracting process.

4. All members of the acquisition team shall participate in a timely manner in the planning and execution of the program. The SADBUs specialist, and members of the acquisition team (including the customer when practicable), shall select from a listing of all projects, those projects which are considered susceptible to the 8(a) program. The selection should be made well in advance

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of the start of each fiscal year. The final selection decision rests with the contracting officer and shall include a fair distribution of supply and service projects (including design, construction and dredging) from the military, civil and work-for-others programs.

5. Select primarily those projects that will be ready to advertise early in the fiscal year. This will allow resolicitation, competitively, if it becomes apparent that an award to the SBA/8(a) contractor cannot be made before the end of the fiscal year. Keep in mind the customer's need date and the time required to complete all actions between issuance of a solicitation and award of a contract. Projects will be offered to the Small Business Administration (SBA) for reservation in the program at a reasonable time after the selection is approved by the contracting officer, but not later than the time when the solicitation becomes available for issuance. Army SADBUE Information Letter 89-1 recommends establishing milestones when offering projects to the SBA.

6. If there is an insufficient number of 8(a) projects selected or available early enough in the fiscal year to ensure meeting your goal, a second selection of projects should be made. This second listing of projects should be assembled immediately and in the same manner. However, it would include projects that are considered good candidates for SDB set-asides (military funded projects only). The lists of 8(a) and SDB set-asides should contain a sufficient number of projects to ensure attaining the minimum SDB goal assigned the contracting office. Towards this end, projects scheduled for issuance late in the fiscal year that could not be reserved for the 8(a) program, but would be otherwise susceptible, should be considered for competing as an SDB set-aside.

7. The final listing of both 8(a) and SDB set-aside projects, after review and approval by the contracting officer, shall be incorporated in the annual report submitted to CEDB by 1 August each year for use in determining goals proposed to the DA SADBUE for the ensuing fiscal year commencing 1 October.

8. Tracking procedures will be established and monitored by the contracting office SADBUE specialist to ensure that no 8(a) project will be excessively delayed. As an optimum target, an award should be scheduled within one hundred twenty (120)

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calendar days after issuance of the plans and specifications to the SBA and its subcontractor (the 8(a) firm). Reasonable milestone dates should be established for the following events and are subject to change on a case-by-case basis as directed by the contracting officer:

a. The 8(a) firm/SBA submit proposal and cost and pricing data (15 to 45 calendar days after issuance of solicitation);

b. Perform technical analysis of the proposal and obtain audit. Preliminary discussions on the proposal may be held with the contractor upon completion of technical analysis when clarification of the scope of work and quantities is necessary. Information should be obtained during this time frame covering the type of bonds the firm will provide. In cases involving individual sureties, an attempt should be made to have the 8(a) firm provide the data necessary to determine whether the bonds will be acceptable (30 to 90 calendar days after receipt of proposals); and

c. Commence negotiations with the SBA and/or 8(a) firm, obtain best and final offer, and award contract (30 to 60 calendar days after receipt of audit).

9. If no agreement on price has been reached within the specified number of calendar days after receipt of proposal or audit, and the difference between the proposal and the fair market price (FMP) is such that further negotiation with the 8(a) firm is not likely to resolve the difference, the contracting officer will take immediate action to hold a final negotiation with the 8(a) concern and the SBA representative as required by AFARS 19.807(b). If these discussions do not result in an agreement between the parties, action will be taken to withdraw the project from the program and to resolicit using competitive sealed bidding or negotiation procedures, including a possible SDB set-aside. No award will be made under the 8(a) program when the price exceeds FMP or under a SDB set-aside when the price exceeds 10 percent above FMP.

10. Adherence to the above procedures should provide assurance to our customers that we do care and that we are doing our utmost to comply with the current laws and regulations in a fair and reasonable manner. Each contracting officer will continue to

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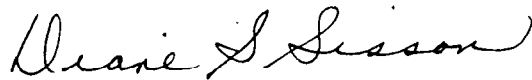
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follow the policy set forth by the DOD/DA and will strive to place projects into the 8(a) program in proportion to each of our customer's total program at that contracting office. Written supplementing policy guidance at the FOA level is encouraged. Copies will be furnished to CEDB.

11. Keep in mind that the total USACE program is to be considered in formulating plans to successfully execute and achieve all our mission goals. It is the policy of the DA and USACE to make every effort to attain the small and disadvantaged business goals mandated by Public Laws 95-507, 99-661, 100-180 and 100-656. The guidance provided herein should not be interpreted to mean that once goals are met no further effort is necessary to establish additional 8(a) or SDB set-aside solicitations. Goals which are assigned to each division are minimum goals. As part of the USACE team, we must all strive to exceed our minimum goals so that collectively the USACE, and ultimately the Army goals will be met.

FOR THE COMMANDER:

Enclosure



Diane S. Sisson
Acting Director
Office of Small and Disadvantaged
Business Utilization

CF:
DA SADBUI
HQUSAF/Lee



DEPARTMENT OF THE ARMY
OFFICE OF THE SECRETARY OF THE ARMY
WASHINGTON, D.C. 20310-0101

31 May 1989

7 JUN 1989



SADBU

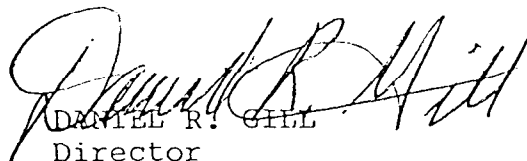
SUBJECT: SADBU Information Letter 89-1 (Offering Requirements
for award to the Small Business Administration (SBA)
Under the 8(a) Program)

SEE DISTRIBUTION

1. It has been brought to the attention of this office that acquisition lead time, in some instance, is increased due to nonresponsiveness on the part of the SBA to offers made by Army activities. Many of the benefits to be derived by both the contracting activity and the 8(a) firm from the use of this program diminishes when this is allowed to happen. Therefore, it is important that these types of situations be minimized.

2. Pursuant to FAR 19.804(b), Army activities must provide time frames with each notification to the SBA of an activity's intent to place an 8(a) contract. I highly recommend that detailed "milestones for the acquisition cycle" be included in the offering letter. A sample format is enclosed. Additional information is also contained in SADBU Information Letter 88-7 (Guidance in offering Procurement Requirements to 8(a) Firms). The offering letter to SBA should also include a statement that "failure on the part of SBA and/or its subcontractor to meet any milestones will result in the requirement being withdrawn for the 8(a) program and processed as a total SDB set-aside or a total small business set-aside." New dates will be established only if the contracting officer has been contacted by the SBA and the dates are acceptable. This must be documented and made a part of the contract file.

3. In regards to selecting 8(a) firms for our offers, we should indicate to SBA the names of firms that have self marketed requirements of the types in question, and if necessary, recommend the nomination of a particular firm based on technical qualification. However, selecting firms for 8(a) program awards is SBA's responsibility. Under no circumstances should a contracting office accept this responsibility unless it is mutually agreeable.


DANIEL R. GILL
Director

Office of Small and Disadvantaged
Business Utilization

15 June 1989
for Jack Daugherty
Director
Office of Small and
Disadvantaged Business
Utilization

Enclosure

Released by CDR USACE (CEDB) to all Field Operating Activities (except EUD) and R&D Laboratories for information. For immediate distribution to Division SADBU Specialists, for redistribution to District SADBU Specialists and other interested parties.

Encl 1

MILESTONES FOR THE ACQUISITION CYCLE

<u>ITEM</u>	<u>REQUIRED DATE</u>
a. SBA Letter of Acceptance (15 days after receipt)	_____
b. SBA identification of prospective subcontractor	_____
c. Submission of proposal to buying office	_____
d. Submission of certified cost or pricing data to buying office, if required	_____
e. Begin Negotiations	_____
f. Concurrence by SBA of the negotiated contract price and estimated current fair market price, if requested	_____
g. Concurrence by SBA with the amount of any business development expense, if applicable	_____
h. End negotiations	_____
i. Contract award	_____